

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED
OCT 28 2019
David J. Bradley, Clerk of Court

JOHN SAIN, et al.,

Plaintiffs,

v.

BRYAN COLLIER, et al.,

Defendants.

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CIVIL ACTION NO.
4:18-cv-04412

**PLAINTIFFS REQUEST FOR LEAVE OF COURT TO PROCEED WITH THEIR
APPEAL USING THE ORIGINAL RECORD**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiffs now come requesting leave of Court to use the original record docketed from the above styled and numbered case.

Plaintiffs filed their Motion To Proceed In Forma Pauperis (IFP) in the District Court, Doc. 124, on September 30, 2019.

Plaintiffs filed their Notice Of Appeal with the District Clerk, Doc. 126, on September 30, 2019.

Plaintiffs mailed to the Clerk of Courts and all parties, Transcript Order Form (DKT-13) signifying no hearing had taken place, hence no known transcripts were required, on October 7, 2019. (To be docketed).

Plaintiffs request, following the Court's grant to proceed IFP, that they be allowed to utilize: Fed. R. App. P. Rule 24 (c), Leave To Use Original Record which states, "A party allowed to proceed IFP may request that the appeal be heard on the original record without reproducing any part."

PRAYER

Plaintiffs pray the Court **GRANT** their request to utilize the original record in their appeal to the 5th Circuit Court of Appeals.

Respectfully Submitted,

Dated: October 21, 2019

CERTIFICATE OF CONFERENCE

Whereby their signatures below, Plaintiffs do hereby certify/declare that a conference is not possible because Plaintiffs are incarcerated in Texas Department of Criminal Justice, Institutional Division, and are proceeding Pro Se in this cause. Plaintiffs will not speculate on whether the Defendants oppose this motion.

CERTIFICATE OF SERVICE

Whereby their signatures below, Plaintiffs do hereby certify/declare that true and correct copies of the foregoing document was forwarded via U.S. First Class Mail, postage pre-paid, to the following parties:

- a. Bryan Collier
TDCJ Executive Director
Texas Department of Criminal Justice
- b. James McKee
Warden
O.L Luther Unit (P2)
- c. Texas Department of Criminal Justice
c/o Bryan Collier
TDCJ Executive Director

Service was perfected to the above Defendants through their Attorneys of Record for Service:

Todd Disher
Attorney In Charge
Office of Attorney General of Texas
209 W 14th, 8th Floor
Austin, TX 78701

Leah Jean O'Leary
Office of the Attorney General
Law Enforcement Defense Division
P.O. Box 12548 Capital Station
Austin, TX 78711-2548

CERTIFICATE OF MAILING

Whereby their signatures below, Plaintiffs do hereby certify/declare that the foregoing document was delivered to the United States Post Office for processing (U.S. First Class postage, pre-paid).

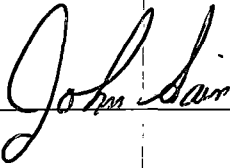
Pursuant to Fed. R. App. P. Rule 25 (a)(2)(A)(iii), "Mailbox Rule," Pro se documents filed at the time they are placed in the institutional mailing system for processing.

INMATE DECLARATION

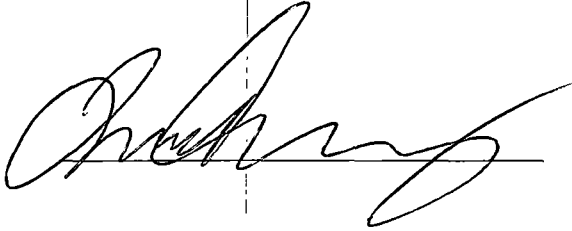
We, the Plaintiffs listed below, being over 18 years of age, of sound mind, capable of making this declaration due to the facts that we: suffer from and/or experience(d) one or more of the conditions described; attended consultations with qualified medical and other professionals; having been trained by medical personnel to recognize and treat complications due to illness/heat/cold; having studied materials listed under Fed. R. Civ. P. Rule 902; through our personal observations; and due to belief and empirical knowledge that the facts stated above; pursuant to 28 U.S.C. § 1746, do hereby declare under penalty of perjury that the foregoing is true and correct from personal knowledge.

Executed on October 21, 2019

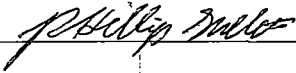
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